

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 100

This advisory opinion is issued pursuant to a request relative to the disclosures made by three employees of a City agency who are also officers of a private computer corporation which provides computer services to private subscribers.

The employees were asked to appear before the Ethics Commission [Commission] and respond to questions posed by the members. The Commission also requested the presence of their immediate supervisor.

Based on the responses and position descriptions of the subject employees and the responses of their immediate supervisor, the Commission found that:

1. The employees are 1) a supervisor; 2) a computer programmer; and 3) an engineer.
2. The supervisor is president of the company and his services are that of an accountant for the private subscribers. That is, he reviews the financial printout of a private subscriber and makes a financial analysis for the private subscriber. The two other employees are computer programmers for the private computer corporation, primarily dealing with data processing, and one is also the corporation's bookkeeper.
3. The employees stated that their activities will be confined to after-hours and during weekends.
4. The information stored in the City agency's computer is not useful for the private corporation's purposes. The City agency's computer contains information relating to its customers, employees, inventory, and technical records. The records stored in the private corporation's computer are primarily related to retail sales of goods and include financial, inventory of goods and other related data. The business of the corporation's subscribers is unrelated to the business of the City agency.
5. The employees stated that the data compiled by the agency relating to private citizens is not useful to the private corporation because its clients do not utilize the mail to broadcast their business products.

6. The employees and their supervisors stated that the City agency's computer printouts can be surreptitiously taken out of the premises and made available to a firm that is in the market to provide names and addresses for marketing purposes. The private corporation involved is not in the market to sell such information: in addition, the City agency's data is merely names and addresses. As such, the telephone directory can be a source of names and addresses for a firm that is in the market for names and addresses.

7. The employees stated that they do not use the City agency's time, equipment, materials, or space.

8. The computers of the City agency and the private corporation cannot, at present, talk to each other. However, if the corporation is willing to purchase interfacing equipment it may, for example, program the City agency's data into the private corporation's microcomputer. However, the cost of the interfacing equipment would be such that it is of no advantage to the corporation.

Based on the foregoing facts, the Commission concludes that there is no violation of the standards of conduct of the RCH and ROH at this juncture, but there is a possibility of potential violation of the standards of conduct. Therefore, the Commission submits the following recommendation for consideration:

1. Promulgate internal rules so that the City agency's computer cannot be used to program information data by an employee with a private business interest or after-hours private employment.

2. Promulgate internal rules for effective control for the use of the data bank and computer printouts so that they cannot be taken away from the agency's premises unless it is for official purposes.

3. Issue a memorandum instructing the City agency's employees not to use City time; equipment, such as telephone, typewriter, tools, and vehicles; facilities of the agency, such as office space, storage space, and other similar facilities; and materials, such as paper and envelopes for employees with private business interests or after-hours private employment.

4. If the private computer corporation increases the number of private subscribers, its president shall in writing inform the Commission of the nature of the business of the new private subscribers. The reason for this recommendation is to examine the nature of the new private subscribers and to determine whether they can utilize any or part of the information in the City agency's computer.

The Commission thanks all concerned for their interest in enhancing the public perception of the integrity and credibility of public officers and employees.

Dated: June 30, 1981

ETHICS COMMISSION
Rev. William Smith, Chairman